

the Secretary of the Treasury and the Secretary of Homeland Security of its action under subsection (a) to direct the exclusion of covered articles from entry.

“(B) REFUSAL OF ENTRY.—Upon receipt of notice under subparagraph (A) regarding the exclusion of covered articles from entry, the Secretary of the Treasury shall refuse the entry of those articles.

“(4) CONTINUATION IN EFFECT.—Any exclusion from entry of covered articles under subsection (a) shall continue in effect until the Commission—

“(A) determines that the conditions that led to such exclusion from entry do not exist; and

“(B) notifies the Secretary of the Treasury of that determination.

“(5) MODIFICATION OR RESCISSION.—

“(A) IN GENERAL.—An interested person may petition the Commission for a modification or rescission of an exclusion order under subsection (a).

“(B) REVISITATION OF EXCLUSION.—The Commission may modify or rescind the exclusion at any time at the discretion of the Commission.

“(C) BURDEN OF PROOF.—The burden of proof in any proceeding before the Commission regarding a petition made by an interested person under subparagraph (A) shall be on the interested person.

“(D) RELIEF.—A modification or rescission for which a petition is made under subparagraph (A) may be granted by the Commission—

“(i) on the basis of new evidence or evidence that could not have been presented at the prior proceeding; or

“(ii) on grounds that would permit relief from a judgment or order under the Federal Rules of Civil Procedure.

“(E) EVIDENTIARY STANDARD.—A modification or rescission may be made under subparagraph (A) if an interested person provides to the Commission clear and convincing evidence that such a modification or rescission should be made.

“(e) CIVIL ACTIONS.—

“(1) IN GENERAL.—A civil action challenging a determination by the Commission under subsection (a) may be brought only—

“(A) in the United States Court of Appeals for the Federal Circuit; and

“(B) not later than 60 days after a petition for modification or rescission under subsection (d)(5) with respect to that determination has been conclusively decided.

“(2) PROCEDURES FOR REVIEW OF PRIVILEGED INFORMATION.—If a civil action challenging a determination under subsection (a) is brought under paragraph (1) and the court determines that protected information in the administrative record, including classified or other information subject to privilege or protections under law, is necessary to resolve the challenge, that information shall be submitted ex parte and in camera to the court and the court shall maintain that information under seal.

“(3) APPLICABILITY OF USE OF INFORMATION PROVISIONS.—The use of information provisions of sections 106, 305, 405, and 706 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1806, 1825, 1845, and 1881e) shall not apply in a civil action challenging an investigation or determination under this subsection.

“(f) INAPPLICABILITY OF THE ADMINISTRATIVE PROCEDURE ACT.—

“(1) IN GENERAL.—The requirements of subchapter II of chapter 5 of title 5, United States Code, shall not apply to—

“(A) an action conducted by the Commission under paragraphs (1) through (3) of subsection (c); or

“(B) the procedures for exclusion under paragraphs (4) and (5) of subsection (d).

“(2) ADJUDICATION.—Any adjudication under this section shall not be subject to the requirements of sections 554, 556, and 557 of title 5, United States Code.

“(g) FREEDOM OF INFORMATION ACT EXCEPTION.—Section 552 of title 5, United States Code (commonly referred to as the ‘Freedom of Information Act’), shall not apply to the activities conducted under this section.

“(h) REGULATIONS.—The Commission may prescribe such regulations as the Commission considers necessary and appropriate to carry out this section.

“(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out this section.

“(j) DEFINITIONS.—In this section:

“(1) ARTICLE.—The term ‘article’ includes any article or component of an article, including digital or physical articles.

“(2) COVERED ARTICLE.—The term ‘covered article’ means an article subject to exclusion from the United States under subsection (a).

“(3) FOREIGN AGENT; FOREIGN INSTRUMENTALITY; IMPROPER MEANS; MISAPPROPRIATION; OWNER; TRADE SECRET.—The terms ‘foreign agent’, ‘foreign instrumentality’, ‘improper means’, ‘misappropriation’, ‘owner’, and ‘trade secret’ have the meanings given those terms in section 1839 of title 18, United States Code.

“(4) INTERESTED PERSON.—The term ‘interested person’, with respect to an allegation under subsection (b)(5)(A), means a person named in the allegation or otherwise identified by the Commission as having a material interest with respect to the allegation.”.

(c) CLERICAL AMENDMENT.—The table of contents for the Tariff Act of 1930 is amended by inserting after the item relating to section 341 the following:

“Sec. 342. National security exclusion for articles or components of articles that contain, were produced using, benefit from, or use trade secrets misappropriated or acquired through improper means by a foreign agent or foreign instrumentality.”.

SA 1872. Mr. CORNYN (for himself and Mrs. FEINSTEIN) submitted an amendment intended to be proposed to amendment SA 1502 proposed by Mr. SCHUMER to the bill S. 1260, to establish a new Directorate for Technology and Innovation in the National Science Foundation, to establish a regional technology hub program, to require a strategy and report on economic security, science, research, innovation, manufacturing, and job creation, to establish a critical supply chain resiliency program, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title II of division E, add the following:

SEC. 5214. COORDINATION OF SCREENING OF FOREIGN DIRECT INVESTMENT.

(a) FINDINGS.—Congress makes the following findings:

(1) Strategic investment through foreign direct investment has emerged as a threat posed by countries that do not abide by or respect the rules-based, global trading system.

(2) Such countries continue to exploit gaps in the uncoordinated and divided framework among countries that do abide by the rules-based, global trading system, both in developed countries by investments in critical technologies and supply chains and developing countries, while creating depend-

encies, debt traps, and exploitation of natural resources without improving the living conditions in such countries.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the United States should work with other developed countries that abide by the rules-based, global trading system to improve the effectiveness of their screening of foreign direct investment through better coordination, including by—

(1) establishing a group dedicated to improving such screening at a forum of heads of state, such as the Group of 7;

(2) developing and agreeing to written best practices and a commitment to sharing relevant information at the ministerial level; and

(3) using technical assistance to assist developing countries in establishing foreign direct investment screening mechanisms.

(c) REPORT ON COORDINATION OF SCREENING OF FOREIGN DIRECT INVESTMENT.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of the Treasury, in consultation with the Secretary of State, shall submit to appropriate committees of Congress a report on the work done as of the date of the report under section 721(c)(3) of the Defense Production Act of 1950 (50 U.S.C. 4565(c)(3)) to establish a formal process for the exchange of information relating to foreign investment with countries that are allies or partners of the United States.

(2) ELEMENTS.—The report required by paragraph (1) shall include—

(A) a description of the work described in paragraph (1), including a list of the countries and engagements as of the date of the report conducted under section 721(c)(3) of the Defense Production Act of 1950;

(B) a description of the formal process established under that section;

(C) a table showing the amounts expended as of the date of the report under that section, disaggregated by fiscal year, country, and purpose;

(D) a description of plans to establish a forum at the Group of 7 or other forum to discuss international harmonization of foreign direct investment screening, best practices, and technical assistance to foreign countries, or any other actions taken or planned to achieve those same objectives; and

(E) any recommendations to Congress on ways to improve international harmonization of foreign direct investment screening, best practices, and technical assistance to foreign countries.

(3) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—The term “appropriate committees of Congress” means—

(A) the Committee on Finance, the Committee on Banking, Housing, and Urban Affairs, and the Committee on Appropriations of the Senate; and

(B) the Committee on Financial Services, the Committee on Ways and Means, and the Committee on Appropriations of the House of Representatives.

SA 1873. Mr. SANDERS submitted an amendment intended to be proposed to amendment SA 1502 proposed by Mr. SCHUMER to the bill S. 1260, to establish a new Directorate for Technology and Innovation in the National Science Foundation, to establish a regional technology hub program, to require a strategy and report on economic security, science, research, innovation, manufacturing, and job creation, to establish a critical supply chain resiliency program, and for other purposes; which was ordered to lie on the table; as follows:

On page 23, between lines 7 and 8, insert the following:

(5) CONDITIONS OF RECEIPT.—

(A) REQUIRED AGREEMENT.—A covered entity to which the Secretary of Commerce awards Federal financial assistance under section 9902 of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Public Law 116-283) or paragraph (3) of this subsection with amounts appropriated under this subsection shall enter into an agreement that specifies that, during the 5-year period immediately following the award of the Federal financial assistance—

(i) the covered entity will not—

(I) repurchase an equity security that is listed on a national securities exchange of the covered entity or any parent company of the covered entity, except to the extent required under a contractual obligation that is in effect as of the date of enactment of this Act;

(II) outsource or offshore jobs to a location outside of the United States;

(III) pay any officer or employee a salary in an amount that is greater than 50 times the median salary of employees during the period lasting one year after the end of the calendar quarter in which the Federal financial assistance is awarded;

(IV) abrogate existing collective bargaining agreements;

(V) consider any individual performing a service for the covered entity as an independent contractor, unless—

(aa) the individual is free from control and direction in connection with the performance of the service, both under the contract for the performance of service and in fact;

(bb) the service is performed outside the usual course of the business of the covered entity; and

(cc) the individual is customarily engaged in an independently established trade, occupation, profession, or business of the same nature as that involved in the service performed; or

(VI) outsource labor for the covered entity to an independent contractor; and

(ii) the covered entity will—

(I) require any contractor or subcontractor for any construction project funded by the Federal financial assistance to enter into a pre-hire collective bargaining agreement or a project labor agreement; and

(II) remain neutral in any union organizing effort.

(B) FINANCIAL PROTECTION OF GOVERNMENT.—The Secretary of Commerce may not award Federal financial assistance to a covered entity under section 9902 of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Public Law 116-283) or paragraph (3) of this subsection with amounts appropriated under this subsection, unless—

(i)(I) the covered entity has issued securities that are traded on a national securities exchange; and

(II) the Secretary of the Treasury receives a warrant or equity interest in the covered business; or

(ii) in the case of any covered entity other than a covered entity described in clause (i), the Secretary of the Treasury receives, in the discretion of the Secretary of the Treasury—

(I) a warrant or equity interest in the covered entity; or

(II) a senior debt instrument issued by the covered entity.

(C) DEFINITIONS.—In this paragraph:

(i) COVERED PROJECT LABOR AGREEMENT.—The term “covered project labor agreement” means a project labor agreement that—

(I) binds all contractors and subcontractors on a construction project through the

inclusion of appropriate specifications in all relevant solicitation provisions and contract documents;

(II) allows all contractors and subcontractors to compete for contracts and subcontracts without regard to whether they are otherwise a party to a collective bargaining agreement;

(III) contains guarantees against strikes, lockouts, and other similar job disruptions;

(IV) sets forth effective, prompt, and mutually binding procedures for resolving labor disputes arising during the covered project labor agreement; and

(V) provides other mechanisms for labor-management cooperation on matters of mutual interest and concern, including productivity, quality of work, safety, and health.

(ii) PROJECT LABOR AGREEMENT.—The term “project labor agreement” means a pre-hire collective bargaining agreement with one or more labor organizations that establishes the terms and conditions of employment for a specific construction project and is described in section 8(f) of the National Labor Relations Act (29 U.S.C. 158(f)).

SA 1874. Mr. SANDERS submitted an amendment intended to be proposed to amendment SA 1502 proposed by Mr. SCHUMER to the bill S. 1260, to establish a new Directorate for Technology and Innovation in the National Science Foundation, to establish a regional technology hub program, to require a strategy and report on economic security, science, research, innovation, manufacturing, and job creation, to establish a critical supply chain resiliency program, and for other purposes; which was ordered to lie on the table; as follows:

At the end of section 3002, insert the following:

(29) Whereas PRC is an authoritarian government that does not democratically elect its president, the United States held its most secure election in history in November 2020 electing Joe Biden as President by a majority of both popular vote and the electoral college.

SA 1875. Ms. CORTEZ MASTO (for Mr. KING) proposed an amendment to the resolution S. Res. 194, celebrating the 149th anniversary of Arbor Day; as follows:

In the preamble, strike the tenth whereas clause and insert “Whereas sustainably grown wood can be used in a wide variety of resilient infrastructure and building applications—from traditional timber framing to high-tech mass timber—and as a natural, renewable, and biodegradable material, the significant use of wood building materials in buildings and bridges helps decrease global carbon emissions;”.

SA 1876. Mr. SANDERS submitted an amendment intended to be proposed to amendment SA 1502 proposed by Mr. SCHUMER to the bill S. 1260, to establish a new Directorate for Technology and Innovation in the National Science Foundation, to establish a regional technology hub program, to require a strategy and report on economic security, science, research, innovation, manufacturing, and job creation, to establish a critical supply chain resiliency program, and for other purposes; which was ordered to lie on the table; as follows:

Strike sections 3002 through 3004 and insert the following:

SEC. 3003. DEFINITIONS.

In this division:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means—

(A) the Committee on Foreign Relations of the Senate; and

(B) the Committee on Foreign Affairs of the House of Representatives.

(2) CCP.—The term “CCP” means the Chinese Communist Party.

(3) INDO-PACIFIC REGION.—The terms “Indo-Pacific” and “Indo-Pacific region” mean the 37 countries and the surrounding waterways that are under the area of responsibility of the U.S. Indo-Pacific Command. These countries are: Australia, Bangladesh, Bhutan, Brunei, Burma, Cambodia, China, Fiji, India, Indonesia, Japan, Kiribati, Laos, Malaysia, Maldives, Marshall Islands, Micronesia, Mongolia, Nauru, Nepal, New Zealand, North Korea, Palau, Papua New Guinea, Philippines, Republic of Korea, Samoa, Singapore, Solomon Islands, Sri Lanka, Taiwan, Thailand, Timor-Leste, Tonga, Tuvalu, Vanuatu, and Vietnam.

(4) PEOPLE’S LIBERATION ARMY; PLA.—The terms “People’s Liberation Army” and “PLA” mean the armed forces of the People’s Republic of China.

(5) PRC; CHINA.—The terms “PRC” and “China” mean the People’s Republic of China.

SA 1877. Mr. BARRASSO submitted an amendment intended to be proposed to amendment SA 1502 proposed by Mr. SCHUMER to the bill S. 1260, to establish a new Directorate for Technology and Innovation in the National Science Foundation, to establish a regional technology hub program, to require a strategy and report on economic security, science, research, innovation, manufacturing, and job creation, to establish a critical supply chain resiliency program, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title I of division C, add the following:

SEC. 3117. PROHIBITION ON RESTRICTIONS ON POWER-GENERATION PROJECTS BY UNITED STATES INTERNATIONAL DEVELOPMENT FINANCE CORPORATION IN CERTAIN COUNTRIES.

Section 1451 of the Better Utilization of Investments Leading to Development Act of 2018 (22 U.S.C. 9671) is amended by adding at the end the following:

“(j) PROHIBITION ON RESTRICTIONS ON POWER-GENERATION PROJECTS IN CERTAIN COUNTRIES.—

“(1) PROHIBITION ON CERTAIN RESTRICTIONS ON POWER-GENERATION PROJECTS.—The Corporation shall not implement or enforce any rule, regulation, policy, procedure, or guideline that would prohibit or restrict the source of energy used by a power-generation project the purpose of which is to provide affordable electricity in an IDA-eligible country or an IDA-blend country.

“(2) LIMITATION ON BOARD.—The Board of the Corporation shall not, whether directly or through authority delegated by the Board, reject a power-generation project in an IDA-eligible country or an IDA-blend country based on the source of energy used by the project.

“(3) ALL-OF-THE-ABOVE ENERGY DEVELOPMENT STRATEGY.—The Corporation shall promote a technology- and fuel-neutral, all-of-the-above energy development strategy for IDA-eligible countries and an IDA-blend